

**EXHIBIT 1 –
EVIDENCE SUMMARY
Chart of Claimed Rulemaking Authority**

Whenever possible, citations of authority have been expressed as the currently-in-force version.



Indicates that DOL did not assert either independent/statutory or redelegated/regulatory authority, or both.

No.	Date	DOL	DHS/AG/INS	Citation of Agency Authority	NONE	8 U.S.C. § 1101	8 U.S.C. § 1101 (a)(15)(H)(ii)	8 U.S.C. § 1103	8 U.S.C. § 1103 (a)	8 U.S.C. § 1103 (a) (6)	8 U.S.C. § 1184	8 U.S.C. § 1184 (a)	8 U.S.C. § 1184 (c)	8 U.S.C. § 1184 (e)	29 U.S.C. § 49	8 C.F.R. § 214.2	8 C.F.R. § 214.2 (h)	8 C.F.R. § 214.2 (h) (6)	8 C.F.R. § 214.2 (h) (6) (iii) (D)	8 C.F.R. § 214.2 (h) (6) (iv) (A)	Remarks
1.	28Dec48	X		Final Rule, 13 Fed. Reg. 8375											X						Agricultural workers
2.	8Sep51	X		Final Rule, 16 Fed. Reg. 9142											X						Agricultural workers
1952-1968 – INS adjudicates non-agricultural H-2 and DOL lacks express authority and regulations																					
3.																					
1968-2002 – INS establishes DOL's advisory procedure and purportedly redelegates to DoL																					
4.	4May66		X	Final Rule, 31 Fed. Reg. 6611			X														No pub comment, Ag. Procedure
5.	8Sep66		X	Final Rule, 31 Fed. Reg. 11744			X														No pub comment, Ag. Procedure
6.	16Mar68	X		NPRM, 33 Fed. Reg. 4629		X				X						X					Procedural rules
7.	22May68	X		Final Rule, 33 Fed. Reg. 7570		X				X						X					Procedural rules
8.	1984	X		NAACP v. Donovan (D.C. Cir.)																	INS delegated authority; Agricultural
9.	1985	X		Va. Agric. v. DOL (4th Cir.)																	INS delegated authority; Agricultural
10.	1985	X		Shoreham v. Donovan (2d Cir.)																	"Pursuant to INS regulations"; Agricultural
11.	Apr85	X		20 C.F.R. § 655.1 (codified)											X						
12.	Apr87	X		20 C.F.R. § 655.1 (codified)											X						
13.	1989	X		Sweet Life v. DoL (5th Cir.)																	Pursuant to INS authority; H-2B
2003-2015 – DHS and DOL vacillate between independent v. redelegated authority																					

No.	Date	DOL	DHS/AG/INS	Citation of Agency Authority	NONE	8 U.S.C. § 1101	8 U.S.C. § 1101 (a)(15)(H)(ii)	8 U.S.C. § 1103	8 U.S.C. § 1103 (a)	8 U.S.C. § 1103 (a) (6)	8 U.S.C. § 1184	8 U.S.C. § 1184 (a)	8 U.S.C. § 1184 (c)	8 U.S.C. § 1184 (e)	29 U.S.C. § 49	8 C.F.R. § 214.2	8 C.F.R. § 214.2 (h)	8 C.F.R. § 214.2 (h) (6)	8 C.F.R. § 214.2 (h) (6) (iii) (D)	8 C.F.R. § 214.2 (h) (6) (iv) (A)	Remarks
14.	Oct03	X		Unified agenda, DOL 1205-AB36		X				X				X							
15.	13Feb08	X		NPRM, 73 Fed. Reg. 8538												X					
16.	22May08	X		NPRM, 73 Fed. Reg. 29942		X		X				X	X			X					
17.	18Dec08	X		Final Rule, 73 Fed. Reg. 77110												X					
18.	19Dec08	X		Final Rule, 73 Fed. Reg. 78020		X		X				X	X			X					
19.	Oct09	X		Unified agenda, DOL 1205-AB58		X								X							
20.	Oct09	X		Regulatory plan												X					"As delegated under DHS' regulations"
21.	5Oct10	X		NPRM, 75 Fed. Reg. 61578													X				"As delegated from DHS"
22.	19Jan11	X		Final Rule, 76 Fed. Reg. 3452													X				"Delegated from DHS under its regulations"
23.	18Mar11	X		NPRM, 76 Fed. Reg. 15130													X		X		"Delegated from DHS under its regulations"
24.	21Feb12	X		Final Rule, 77 Fed. Reg. 10038		X						X				X			X		Cong'l acquiescence, implied from administration
25.	Apr13	X		Unified agenda, DOL 1205-AB69		X						X									
26.	24Apr13		X	IFR, 78 Fed. Reg. 24047		X		X			X										
27.	24Apr13	X		IFR, 78 Fed. Reg. 24047	X																Subpart A.
28.	24Apr13	X		IFR, 78 Fed. Reg. 24047		X				X		X						X			This is for § 655.0 only.
29.	1Apr14	X		20 C.F.R. § 655, Subpart A		X				X				X							Current codification of Subpart A.
30.	29Apr15	X		IFR, 80 Fed. Reg. 24042												X					Program rules
31.	29Apr15		X	IFR, 80 Fed. Reg. 24042		X		X			X										Program rules
32.	29Apr15	X		Final Rule, 80 Fed. Reg. 24146	X																Subpart A.
33.	29Apr15	X		Final Rule, 80 Fed. Reg. 24146		X				X		X		X							This is for § 655.0 only.
34.	29Apr15		X	Final Rule, 80 Fed. Reg. 24146		X		X			X										No citation provided. Derived from IFR.
35.																					